

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE:

PROCEDURES FOR
CHAPTER 11 CASES

:
:
:
:

GENERAL ORDER ADOPTING
GUIDELINES GOVERNING FIRST DAY MATTERS

UPON CONSIDERATION of the recommendations of the Chapter 11 Subcommittee of the Lawyers' Advisory Committee to the United States Bankruptcy Court For the District of New Jersey, the Court finds a need to implement policies and procedures to better serve the bench, bar and public in Chapter 11 cases. Accordingly, by resolution of the Board of Judges of the United States Bankruptcy Court for the District of New Jersey

IT IS ORDERED that the Guidelines Governing First Day Matters attached hereto as Exhibit A are hereby ADOPTED; and

IT IS FURTHER ORDERED that

1. The Court reserves the right to modify the provisions of this General Order to accommodate the needs of a Chapter 11 case before it; and
2. The Exhibits/Standard Forms and Orders referenced in this General Order may be revised by the Court at any time on an individual basis without the need to further amend this General Order; and

IT IS FURTHER ORDERED that this Order shall apply to Chapter 11 cases pending on the date of this Order.

Dated: _____, 2003

Hon. Rosemary Gambardella, Chief Judge
United States Bankruptcy Court
District of New Jersey

EXHIBIT A

GUIDELINES GOVERNING FIRST DAY MATTERS

The procedures set forth below concern the submission and entry of first day motions to guide the orderly administration of newly filed Chapter 11 cases throughout the District of New Jersey. This will enable both the Court and practitioners to understand the procedures in advance and ensure that motions and corresponding relief they seek conform to procedures that have been generally approved by the Court. Accordingly, the following guidelines governing first day matters have been approved by the Court.

A. DEFINITION

1. A "First Day Matter" is defined as a motion filed simultaneously with the Chapter 11 petition which, in the opinion of counsel, requires expedited consideration by the Court ~~within two business days of the filing.~~

2. *While the relief requested by counsel will be considered by the Court, those First Day Matters which seek extraordinary relief will be granted in the Court's discretion only upon good cause shown.*

3. An application seeking employment of a professional must be filed pursuant to D.N.J. LBR 2014-1 in the normal course, and is not to be considered as a "first day matter" with respect to which expedited consideration may be sought.

B. FILING THE REQUEST

1. If a debtor in a Chapter 11 case has matters requiring expedited consideration by the Court, it should submit an Application For Expedited Consideration Of First Day Matters in the standard form attached hereto as Schedule "1," together with a proposed form of Order Regarding Application For Expedited Consideration Of First Day Matters in the standard form attached hereto as Schedule "2." Counsel shall file their respective pleadings with the Court leaving a blank for the return date.

2. First Day Matters shall be supported by certification(s).

3. The Court shall issue its Order Regarding Application For Expedited Consideration Of First Day Matters and immediately advise Debtor's counsel of same.

C. SERVICE

1. Counsel for the Debtor shall:

(a) notify by telecopy and serve electronically, if the e-mail address is available, (or by overnight delivery or immediate hand delivery) a copy of the Application For Expedited Consideration and supporting documents, upon all affected parties, including the United States Trustee, simultaneously with filing same with the Court; and

(b) notify by telecopy and serve electronically, if the e-mail address is available (or by overnight delivery or hand delivery) a copy of the Court's Order Regarding Application For Expedited Consideration, upon all affected parties, including the United States Trustee, within one (1) business day, after receipt of said Order.

D. Objections/Responses to First Day Matters

1. Objection(s) and/or response(s) to First Day Matter(s) may be filed with the Court anytime prior to the hearing(s) on the First Day Matter(s). The Court will also entertain any oral objection(s) and/or response(s) to a First Day Matter(s) at the time of hearing(s).

2. Should a matter for which expedited consideration is requested in the Application For Expedited Consideration Of A First Day Matter(s) is sought and is **not** set down for hearing as a First Day Matter, but yet scheduled for hearing on an expedited basis, it is incumbent upon movant's counsel to inquire from the Court the deadline(s) for filing and serving objection(s) upon all parties in interest of the objection deadline and method by which the Court will entertain objection(s) and/or response(s) in writing to all parties in interest within one (1) business day of the Court's decision as to the objection/response deadline, service of objection/response and the acceptable method of objecting and/or responding to a matter.

E. OTHER ADMINISTRATIVE MATTERS

1. Should counsel for the Debtor have requested and received an Order Granting Complex Chapter 11 Case Treatment, the provisions of the Court's *General Order Governing Procedures For Complex Chapter 11* cases shall also apply.

2. With respect to expedited hearings, noticing procedures and orders shortening time, please note that with regard to cases designated as Complex Chapter 11 Cases, the Guidelines set forth as Exhibit F, subsection B, provide for the maintenance of the current practice concerning orders shortening time under the Court's Local Rules. That is, with the exception of the Request for Expedited Consideration of First Day Matters and related Order regarding same (which supplants the OST practice for First Day Matters), the procedure for bringing emergent matters before the Court on less than 20 days notice as required by D.N.J. LBR 9013-1(c) is maintained.

SCHEDULE "1"

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

IN RE:	:	CHAPTER:	11
	:		
	:	CASE NO.:	_____
	:		
DEBTOR.	:	JUDGE:	_____

**APPLICATION FOR EXPEDITED CONSIDERATION
OF FIRST DAY MATTERS**

On _____, _____ filed
a petition for relief under Chapter 11 of the Bankruptcy Code.

Counsel for the Debtor requests that the following relief be provided on a first day basis
(check and include in the Application and Proposed Form of Order, only those Motions that
apply. That is, eliminate reference to those items contained in the checklist which do not pertain
to the particular motions being filed with the Court):

1. _____ MOTION SEEKING THE JOINT ADMINISTRATION OF MULTIPLE
DEBTOR BANKRUPTCY CASES.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set
forth in supporting certification: _____

2. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR AN EXTENSION
OF TIME WITHIN WHICH TO FILE STATEMENTS AND SCHEDULES.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set
forth in supporting certification: _____

3. _____ MOTION FOR AN ORDER AUTHORIZING THE EMERGENCY OR INTERIM USE OF CASH COLLATERAL OR DEBTOR-IN-POSSESSION FINANCING PENDING THE NOTICING AND SCHEDULING OF AN INTERIM OR FINAL HEARING FOR FINANCING PURSUANT TO BANKRUPTCY CODE §§ 363 AND 364 AND FED. R. BANKR. P. 4001.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

4. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO MAINTAIN EXISTING BANK ACCOUNTS AND BUSINESS FORMS AND CASH MANAGEMENT PROCEDURES PROVIDING THE UNITED STATES TRUSTEE'S OFFICE WITH A 60 DAY PERIOD TO OBJECT TO SAID ORDER BEFORE IT BECOMES A FINAL ORDER.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

5. _____ MOTION FOR AN ORDER AUTHORIZING A DEBTOR TO MODIFY THE INVESTMENT GUIDELINES SET FORTH IN BANKRUPTCY CODE § 345 ON AN INTERIM BASIS, PROVIDING THE UNITED STATES TRUSTEE'S OFFICE AND ANY OTHER PARTIES-IN-INTEREST A 60-DAY PERIOD TO OBJECT TO SAID ORDER BEFORE IT BECOME A FINAL ORDER.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

6. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO PAY PRE-PETITION WAGES, SALARIES, COMPENSATION, EMPLOYEE BENEFITS AND REIMBURSABLE BUSINESS EXPENSES UP TO THE LIMITS SET FORTH IN BANKRUPTCY CODE § 507(a).

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

7. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO PAY PRE-PETITION SALES, USE, PAYROLL AND OTHER TAXES THAT ARE OTHERWISE PRIORITY CLAIMS UNDER BANKRUPTCY CODE § 507.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

8. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO CONTINUE CREDIT CARD FACILITIES.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

9. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO HONOR CERTAIN PRE-PETITION CUSTOMER OBLIGATIONS, DEPOSITS, REBATES, ETC.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

10. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO CONTINUE WITH AND PAY PRE-PETITION OUTSTANDING AMOUNTS DUE ON VARIOUS INSURANCE POLICIES.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

11. _____ MOTION FOR AN ORDER AUTHORIZING PAYMENT OF OUTSTANDING AND UNPAID PRE-PETITION DEBT TO CERTAIN VENDORS WHO PROVIDE CRITICAL AND NECESSARY SERVICES AND/OR PRODUCTS TO THE DEBTOR.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

12. _____ MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY CODE § 366 REGARDING ADEQUATE ASSURANCE FOR THE FUTURE PERFORMANCE FOR UTILITIES AND ESTABLISHING PROCEDURES FOR DETERMINING REQUESTS FOR ADDITIONAL ADEQUATE ASSURANCE.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

13. _____ MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO RETAIN A CLAIMS AND NOTICING AGENT.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

14. _____ MOTION FOR AN ORDER ESTABLISHING NOTICING PROCEDURES.

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

15. _____ OTHERS [COUNSEL SHOULD ADD ALL OTHER MOTIONS FOR WHICH IT SEEKS CONSIDERATION AS A FIRST DAY MATTER.]

Requested hearing date and time: _____

Brief recitation of the reason why expedited consideration is necessary as set forth in supporting certification: _____

_____, 200_____

Name

Address

Telephone and Fax numbers

E-mail Address

NOTE: Each motion or application for which expedited consideration is requested shall be filed with the Clerk of the U.S. Bankruptcy Court For The District Of New Jersey and served upon the United States Trustee and all affected parties.

An Application seeking the employment of a professional must be filed pursuant to D.N.J. LBR 2014-1 in the normal course, and is not to be considered as a “first day matter” with respect to which expedited consideration may be sought. Similarly, a Motion for an Administrative Order for Payment of Interim Compensation to Professionals must also be filed in the normal course and in accordance with the directives provided by the proposed General Order regarding same, and is not to be considered as a “first day matter” with respect to which expedited consideration may be sought.

SCHEDULE “2”

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

In Re:

Case No.:

Adv. No.:

Hearing Date:

Judge:

**ORDER REGARDING APPLICATION FOR EXPEDITED
CONSIDERATION OF FIRST DAY MATTERS**

The relief set forth on the following pages, numbered two (2) through is
hereby **ORDERED**.

.....

This bankruptcy case was filed on _____, 200____. An Application For Expedited Consideration Of First Day Matters was filed. After review of the initial pleadings filed in this case which have been designated by counsel as requiring expedited consideration, and for good cause shown;

IT IS HEREBY ORDERED that the following motions are set down for hearing before The Honorable _____ in Courtroom # _____ located at _____ at the date and time as set forth below:

Hearing Date and Time

1. MOTION SEEKING THE JOINT ADMINISTRATION OF MULTIPLE DEBTOR BANKRUPTCY CASES. _____ at _____ .M.
2. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR AN EXTENSION OF TIME WITHIN WHICH TO FILE STATEMENTS AND SCHEDULES. _____ at _____ .M.
3. MOTION FOR AN ORDER AUTHORIZING THE EMERGENCY USE OF CASH COLLATERAL OR DEBTOR-IN-POSSESSION FINANCING PENDING THE NOTICING AND SCHEDULING OF AN INTERIM HEARING FOR FINANCING PURSUANT TO BANKRUPTCY CODE §§ 363 AND 364 AND FED. R. BANKR. P. 4001. _____ at _____ .M.
4. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO MAINTAIN EXISTING BANK ACCOUNTS AND BUSINESS FORMS AND } CASH MANAGEMENT PROCEDURES PROVIDING THE UNITED STATES TRUSTEE'S OFFICE WITH A 60 DAY PERIOD TO OBJECT TO SAID ORDER BEFORE IT BECOMES A FINAL ORDER. _____ at _____ .M.

5. MOTION FOR AN ORDER AUTHORIZING A DEBTOR TO MODIFY THE INVESTMENT GUIDELINES SET FORTH IN BANKRUPTCY CODE § 345 ON AN INTERIM BASIS, PROVIDING THE UNITED STATES TRUSTEE'S OFFICE AND ANY OTHER PARTIES-IN-INTEREST A 60-DAY PERIOD TO OBJECT TO SAID ORDER BEFORE IT BECOME A FINAL ORDER. _____ at _____ .M.
6. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO PAY PRE-PETITION WAGES, SALARIES, COMPENSATION, EMPLOYEE BENEFITS AND REIMBURSABLE BUSINESS EXPENSES UP TO THE LIMITS SET FORTH IN BANKRUPTCY CODE § 507(a). _____ at _____ .M.
7. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO PAY PRE-PETITION SALES, USE, PAYROLL AND OTHER TAXES THAT ARE OTHERWISE PRIORITY CLAIMS UNDER BANKRUPTCY CODE § 507. _____ at _____ .M.
8. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO CONTINUE CREDIT CARD FACILITIES. _____ at _____ .M.
9. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO HONOR CERTAIN PRE-PETITION CUSTOMER OBLIGATIONS, DEPOSITS, REBATES, ETC. _____ at _____ .M.
10. MOTION FOR AN ORDER AUTHORIZING THE DEBTOR TO CONTINUE WITH AND PAY PRE-PETITION OUTSTANDING AMOUNTS DUE ON VARIOUS INSURANCE POLICIES. _____ at _____ .M.
11. MOTION FOR AN ORDER AUTHORIZING PAYMENT OF OUTSTANDING AND UNPAID PRE-PETITION DEBT TO CERTAIN VENDORS WHO PROVIDE CRITICAL AND NECESSARY SERVICES AND/OR PRODUCTS TO THE DEBTOR. _____ at _____ .M.

12. MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY CODE § 366 REGARDING
ADEQUATE ASSURANCE FOR THE FUTURE
PERFORMANCE FOR UTILITIES AND
ESTABLISHING PROCEDURES FOR
DETERMINING REQUESTS FOR ADDITIONAL
ADEQUATE ASSURANCE. _____ at _____ .M.
13. MOTION FOR AN ORDER AUTHORIZING
THE DEBTOR TO RETAIN A CLAIMS AND
NOTICING AGENT. _____ at _____ .M.
14. MOTION FOR AN ORDER ESTABLISHING
NOTICING PROCEDURES. _____ at _____ .M.
15. OTHERS [COUNSEL SHOULD ADD ALL
OTHER MOTIONS FOR WHICH
IT SEEKS CONSIDERATION AS FIRST
DAY MATTERS AS SET FORTH IN THE
UNDERLYING REQUEST.] _____ at _____ .M.

IT IS FURTHER ORDERED, that Service of the within Order shall be made in accordance with the Court's General Order Adopting Guidelines Governing First Day Matters; and

IT IS FURTHER ORDERED, that objections and/or responses to First Day Matters, if any, shall be made in accordance with the Court's General Order Adopting Guidelines Governing First Day Matters.